

**FILED**

**FEB 21 2013**

**Board of Vocational Nursing  
and Psychiatric Technicians**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
4 State Bar No. 101336  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-3037  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. VN-2011-4660

12 **PEGGY ELLEN MILLER**  
13 **793 Roadrunner Drive**  
**Bullhead City, AZ 86442**

**A C C U S A T I O N**

14 **Vocational Nurse License No. VN 209092**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in  
20 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric  
21 Technicians, Department of Consumer Affairs.

22 2. On or about May 4, 2004, the Board of Vocational Nursing and Psychiatric  
23 Technicians issued Vocational Nurse License Number VN 209092 to Peggy Ellen Miller  
24 (Respondent). The Vocational Nurse License expired on June 30, 2011, and has not been  
25 renewed.

26 ///

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2811 of the Business and Professions Code (Code) states, in pertinent part:

....

(b) Each such license not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition for the reinstatement of any such expired license which has lapsed solely by reason of nonpayment of the renewal fee. After the expiration of such eight-year period the board may require as a condition of reinstatement that the applicant pass such examination as it deems necessary to determine his present fitness to resume the practice of professional nursing.

....

5. Section 2875 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

## STATUTORY AND REGULATORY PROVISIONS

6. Section 2878 of the Code states:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter.

....

///

7. Section 2878.8 of the Code states:

The board may deny any application or may suspend or revoke any license issued under this chapter [the Vocational Nursing Practice Act] based upon the denial of licensure, suspension, restriction, or other disciplinary action of a license by another state, any other government agency, or by another California health care professional licensing board. A certified copy of the finding shall be conclusive evidence of that action provided that, if from another state, the findings establish an act which if committed in California would be grounds for discipline.

8. California Code of Regulations, title 16, section 2504.1 states:

If the board or its designee asks a licensee to provide criminal history information, a licensee shall respond to that request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information.

## COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

**FIRST CAUSE FOR DISCIPLINE**

(Unprofessional Conduct - Disciplinary Action by Another Health Care Professional Licensing Board - Arizona State Board of Nursing)

10. Respondent is subject to disciplinary action under section 2878.8 on the grounds of unprofessional conduct in that Respondent's Arizona Practical Nurse License LP038617 was disciplined by the Arizona Board of Nursing for violation of Arizona Revised Statutes 32-1601(18) (any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public; (g) (willfully or repeatedly violating a provision of this chapter or a rule adopted pursuant to this chapter) and (j) (violating a rule that is adopted by the Board pursuant to this chapter); and Arizona Administrative Code section R4-19-403(17) (a pattern of using or being under the influence of alcohol, drugs, or a similar substance to the extent that judgment may be impaired and nursing practice detrimentally affected, or while on duty in any health care facility, school, institution, or other work location) and (18) (obtaining, possessing, administering,

1 or using any narcotic, controlled substance, or illegal drug in violation of any federal or state  
2 criminal law, or in violation of the policy of any health care facility, school, institution, or other  
3 work location at which the nurse practices). The circumstances are as follows:

4 11. On or about April 6, 2011, the Arizona Board of Nursing received a complaint against  
5 Respondent's practical nurse license from New Hope Hospice in Bullhead City, Arizona, alleging  
6 that on March 14, 2011, Respondent, while employed as a licensed practical nurse, submitted a  
7 for-cause urine screen that was positive for morphine and benzodiazepines. Respondent was  
8 unable to provide a valid prescription for the morphine and was subsequently terminated from  
9 employment on March 29, 2011. The for-cause test was based on Respondent's frequent  
10 absenteeism due to sickness, her disheveled appearance, missed appointments with patients, and  
11 slurred speech. During an interview with Arizona Board investigative staff, Respondent admitted  
12 to using Morphine Sulfate Extended Release which she obtained in Mexico.

13 12. On March 19, 2012, the Arizona Board revoked Respondent's practical nurse license  
14 No. LP038617.

### 15 **SECOND CAUSE FOR DISCIPLINE**

16 (Unprofessional Conduct - Failure to Respond to a Board Inquiry)

17 13. Respondent is subject to disciplinary action under section 2878(a) on the grounds of  
18 unprofessional conduct as defined by California Code of Regulations, title 16, section 2504.1, in  
19 that Respondent failed to respond to a Board inquiry. The circumstances are as follows:

20 14. On or about June 14, 2012 and August 10, 2012, the California Board of Vocational  
21 Nursing and Psychiatric Technicians mailed Respondent letters at her address of record  
22 requesting that Respondent submit, within 30 days from the dates of the letters, a signed, detailed  
23 explanation regarding the incident or incidents that led up to the revocation of her Arizona  
24 practical nurse license. Respondent failed to respond to the Board's inquiries.

25 ///

26 ///

27 ///

28 ///

1 **PRAYER**

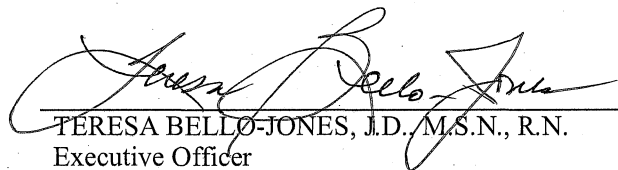
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians  
4 issue a decision:

5 1. Revoking or suspending Licensed Vocational Nurse License Number VN 209092,  
6 issued to Peggy Ellen Miller;

7 2. Ordering Peggy Ellen Miller to pay the Board of Vocational Nursing and Psychiatric  
8 Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to  
9 Business and Professions Code section 125.3;

10 3. Taking such other and further action as deemed necessary and proper.

11  
12 DATED: **FEB 21 2013**



13 TERESA BELLO-JONES, J.D., M.S.N., R.N.  
14 Executive Officer  
15 Board of Vocational Nursing and Psychiatric Technicians  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant

17 SD2012704312  
18 70677362.doc